

APPROVED: Meeting No. 33-90

ATTEST: *Sharon A. Gran*

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
Meeting No. 31-90

July 23, 1990

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, Maryland Avenue at Vinson Street, Rockville, Maryland, on July 23, 1990, at 7:30 p.m.

PRESENT

Mayor Douglas M. Duncan

Councilmember James F. Coyle

Councilmember Viola D. Hovsepien

Councilmember James T. Marrinan

Councilmember David Robbins

In attendance: City Manager Bruce Romer, City Clerk Sharon Gran, Assistant City Attorney Sondra Block and City Attorney Paul Glasgow.

Re: City Manager's Report

1. This Thursday at 5:30 p.m., there will be a small business visit to the Treasure Chest Jewelers located on North Washington Street. This is an appropriate time to recognize this business which is celebrating its 30th anniversary.

2. A new innovative element of police patrol is being initiated this week on a trial basis for the month of August. A bicycle patrol will make rounds in Town Center and parks, areas sometimes difficult to reach by car. Two bicycles have been donated for this effort, one from the Twinbrook Bicycle Shop and the other from the manufacturer. The bicycle patrol will be readily identifiable through a new uniform consisting of a navy blue polo shirt with the Rockville emblem.

In response to Councilmember Coyle, the City Manager noted that this patrol will engage in all the usual types of enforcement in addition to providing a police

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presence in areas inaccessible by car. Mayor Duncan noted that at the August 6 meeting, the officers assigned to the patrol as well as the donors of the bicycles will be recognized.

3. The annual Rockville Chamber of Commerce outing will be held this Friday, July 27, at Redgate Golf Course.

4. The Rockville Rotary Twilight Runfest held on Saturday night was considered by everyone to be a big success. The weather conditions were better than in previous years, and there were 2709 registrants for the 8K run, 840 for the Fun Run and 8 wheelchair participants.

Mayor Duncan extended his appreciation to everyone who worked at the Rotary Twilight Runfest and noted the success of the program in terms of the large numbers of participants and spectators. He mentioned a seven year old girl who made a wrong turn and successfully ran the entire 8K race rather than the Fun Run.

5. With respect to the format for the wetlands issue, the purpose is to afford the Mayor and Council an opportunity to review staff's draft compilation of questions raised by residents over the past several weeks and proposed responses. Following Mayor and Council review, this report will be distributed to the entire mailing list along with information regarding the next meeting to be held some time in September.

6. As a follow-up to the Holiday Party held in December, photographs were taken of the service award recipients. A composite of these photographs is here tonight and will be displayed at various City facilities for everyone to enjoy.

Re: Presentation of awards to winners of Rockville Gazette Open Tennis Tournament, Singles and Doubles Competition, which was held during the month of June.

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A Certificate was presented to the Gazette newspapers in recognition of their continued support and sponsorship of this tennis tournament.

The following winners were presented with awards:

Men's Singles (Sanctioned)

John Hoover
John Reinhard
Jeff Ginnis
F. Langrenney

Men's Singles

Steve Piacente
Sergio Arrellago

Women's Singles (Sanctioned)

Pearl Morris
Vicki Estrella

Women's Singles

Tracey Gold
Jasmin Marquaret

Teen Singles (Sanctioned)

Doug Neagle
James Lee

Teen Singles

John Kim
Ray Raichura

Men's 55 Years (Sanctioned)

Stanley Freden
Charles Luttrell

Men's 55 Years

Murti Pemmerazu
Gerald Gold

Mixed Doubles (Sanctioned)

Barbara and Mark Lichtenstein
Darrette Worrell/Charles Carter

Mixed Doubles

Christine Smith/Dave Beachemin
Cynthia Pantazis/Seth Kirshenberg

Men's Doubles (Sanctioned)

A.B. Cruz III/Tony Cruz
John Fahrner/Kevin Wendt

Men's Doubles

Cliff Liu/Stanley Kao
George Kientz/Ziv Guttman

Boy's Doubles (Sanctioned)

Adam Baig/Doug Marco
Matt Bao Brown/Hyon Yoo

Boy's Doubles

Graham Cox/Marc Brickhouse
Khanh Nguyen/Jason Skapet

Women's Doubles

Miriam Goltz/Laurie Abzug
Elizabeth Rex/Vicki Estrella

Men's 55 Years Doubles

Carroll Marshall/Charles Harris
Murti Pemmarazu/P. Krishna Rao

Re: Citizens' Forum

At this time, the Mayor opened the meeting to hear from any citizen who wished to address the Mayor and Council.

1. Mary Abert, 9 Maryland Avenue, referenced the City's plan to put sidewalks on the north side of Maryland Avenue. She indicated that she does not want the sidewalks installed and that the sidewalks already in existence accommodate the need.

Mayor Duncan requested a report from staff on this matter and asked that information be provided to Mrs. Abert.

2. Bill Abert, 9 Maryland Avenue, also indicated there is no need for additional sidewalks on Maryland Avenue. He further noted that Maryland Avenue has become a speedway requiring additional monitoring by the police. Mayor Duncan requested information as to police efforts to control speed on this street.

3. Patricia Ebrahimi referenced the property she and her husband own at 108 Forest Avenue. They had appealed the decision of the Planning Commission denying their application for subdivision, and the Circuit Court reversed the Planning Commission. She urged that the decision of the Circuit Court not be appealed by the City, but that the Planning Commission be instructed to decide the application on the basis of the subdivision regulations now in effect. In response to Mayor Duncan, Mrs. Ebrahimi commented that she and her husband would be willing to record a covenant prohibiting the erection of a fence or any other structure between the two lots.

4. Leah Barnett, 19 Orchard Way North, voiced her opposition to allowing accessory apartments by special exception, noting that she felt this would detract or take away from the single-family detached neighborhood and that the extended family concept could be handled in the single-family dwelling itself.

5. Eleanor Northway, 903 Leverton Road, President of the Hungerford-Stoneridge Civic Association, addressed the wetlands issue. She complimented City staff for following through in providing information to the interested residents; however, she

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noted that the residents were not advised of the Mayor and Council worksession scheduled this evening on the wetlands. She requested that interested persons be provided with Mayor and Council agendas which reference items involving the Ritchie Parkway wetlands project.

Mayor Duncan apologized, indicating that the session to be held this evening is an opportunity for the Mayor and Council to ask staff questions about the wetlands. He noted that in the future interested citizens would receive all meeting agendas which involve the subject matter of wetlands.

There being no other citizen wishing to be heard, the Mayor closed the Citizens' Forum portion of the meeting.

Re: Appointments

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the following appointments were approved:

Richard W. Zeidman was reappointed to a two-year term on the Alternative Community Service Commission;

Robert Dorsey was reappointed to a four-year term on the Human Rights Commission;

Lloyd Welter was reappointed to a four-year term on the Human Rights Commission;

Terry Baker was reappointed to a three-year term on the Recreation and Park Advisory Board;

David Carnow was reappointed to a three-year term on the Science and Technology Commission; and

Douglas Worthing was reappointed to a three-year term on the Sign Review Board.

Councilmember Coyle commented on the outstanding service of all of these individuals and their willingness to serve another term.

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Re: Approval of Minutes

Upon motion of Councilmember Robbins, duly seconded, with Councilmembers Coyle and Marrinan abstaining, the minutes of Meeting No. 29-90 (July 9, 1990) were approved, as amended.

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the minutes of Meeting No. 30-90 (July 16, 1990) were approved, as written.

Re: Consent Agenda

Mayor Duncan requested that Item B be removed from the Consent Agenda, and Councilmember Marrinan asked that Item D be removed. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following Consent Agenda Items were approved:

- A. Award of Council of Governments Annual Cooperative Bid for Rockville for 52,000 gallons of Diesel Fuel to Louis Dreyfus Energy Corporation at their low bid of \$0.5279 per gallon. The FY90 price was \$0.5099 per gallon.

Each year, the City buys its gasoline and diesel fuel through the Council of Governments cooperative bidding process.

- C. Preliminary Review - Text Amendment Application T-112-90, New Covenant Fellowship Church, applicant.

Amendment to Zoning Ordinance to allow churches, synagogues and other places of worship in the I-3, Industrial Park Zone.

Re: Award of Bid No. 6-91 for annual street resurfacing (Smoothseal) contract for the low bid of \$300,000 to the Brigham & Day Paving Company, Rockville.

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Mayor Duncan asked why Tower Oaks Boulevard, a new street, is included in the smoothseal program (Item B from the Consent Agenda). Staff responded that it includes only a small piece of old connecting road. Discussion followed as to why the FY90 bid is being awarded now. Staff responded that it is generally awarded in the spring, but was delayed this year due to other work. The FY91 work would begin in the spring of 1991. In order to take advantage of the favorable rates now available, Mayor Duncan asked staff to explore the possibility of awarding the FY91 bid in the near future which would represent a significant savings to the City. Staff agreed to review this possibility.

Upon motion of Councilmember Hovsepien, duly seconded and unanimously passed, Brigham & Day Paving Company was awarded Bid No. 6-91 in the amount of \$300,000.

Re: Authorization to Execute
Abandonment of Public
Easements.

Councilmember Marrinan had requested that this item (D) be removed from the Consent Agenda to inquire as to whether or not abutting property owners had been notified and to determine the process for restoring the easements. Staff noted that this is a new subdivision and there are no property owners at this time affected by the abandonment. Staff explained that with recordation of the record plat as approved by the Planning Commission, the current easements will be extinguished and new, slightly modified easements will be established.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, authorization for the Mayor to execute a declaration of abandonment for an existing sewer and storm drainage easement and a slope easement in the Rockshire subdivision at Glen Mill Road and Maryland Route 28 was granted.

Re: Introduction and adoption of
Ordinance to grant Text
Amendment Application T-106-
90, Mayor and Council of
Rockville, Applicant.

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Ordinance No. 23-90

Having been introduced by Councilmember Coyle and upon motion of Councilmember Robbins, duly seconded and unanimously passed, the layover requirements for the ordinance were waived inasmuch as there were no substantive changes to the Zoning Ordinance and in order that copies could be distributed without further delay. Upon motion of Councilmember Coyle, duly seconded and unanimously passed, Ordinance No. 23-90, the full text of which can be found in Ordinance Book No. 16 of the Mayor and Council, was adopted to recodify the Zoning and Planning Ordinance (Chapter 6) into a new Chapter 25 of the Rockville City Code.

Re: Resolution to authorize the Housing Authority of the City of Rockville to administer a Section 8 voucher program of up to 100 units.

Resolution No. 19-90

In response to Councilmember Coyle, staff advised that the Housing Authority receives administrative costs for each unit. Staff also advised Councilmember Coyle that the fair market rents for the units are established by the Department of Housing and Urban Development as a fair market rate for the entire metropolitan Washington area which includes Rockville. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Resolution No. 19-90, the full text of which can be found in Resolution Book No. 9 of the Mayor and Council, was adopted to authorize a letter of support for the Housing Authority's application to the U.S. Department of Housing and Urban Development.

Re: Discussion and Instructions to Staff - Amendment to Chapter 18 of the Rockville City Code entitled "Rental Facilities."

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The amendment provides various definitions requiring an accessory apartment rental unit license and establishes minimum facilities requirement for accessory apartments.

Re: Discussion and Instructions to Staff - Amendment to Chapter 5, Article XII of the Rockville City Code entitled "Property Maintenance Code."

This amendment provides for inspection and regulation of accessory apartments and adds various definitions to the ordinance.

Re: Discussion and Instructions to Staff - Text Amendment Application T-108-90, Mayor and Council of Rockville, Applicant.

Amendment to provide for accessory apartments by special exception in one-family detached residential zones.

The above three items deal with accessory apartments and were considered together. Councilmember Hovsepien commented that a research report identifying all neighborhoods that had adopted accessory apartment legislation indicated that the number of conversions has been minimal. Staff noted that there are only 450 such units countywide and that the City should not have to fear for the integrity of their single-family neighborhoods. The Mayor and Council then discussed and responded to a number of issues emanating from the public hearing on this legislation as follows:

- o Should accessory apartment legislation be enacted in light of a stated fear that it could harm the integrity of neighborhoods zoned for single-family homes?

The Mayor and Council responded yes to this question.

- o Should specific standards be utilized in place of the term "excessive concentrations" when considering a special exception for accessory apartment or should "concentration" even be considered at all?

The Assistant City Attorney advised that the City should not leave this provision vague and suggested defining a little more clearly the standards such as numbers permitted within a certain area. The Mayor and Council agreed that more specific standards are needed. Staff will research the issue of what constitutes "excessive concentrations" taking into consideration traffic and parking in defining standards. In response to Councilmember Marrinan, staff indicated that they were not aware of any litigation emanating from the County's legislation.

- o Should off-street parking continue to be required in light of a concern that people will pave their front lawns in order to provide requisite off-street parking?

It was agreed that off-street parking should be evaluated during the special exception process and that it is important that this standard be used.

- o Should the minimum lot size upon which an accessory unit is permitted be enlarged from the recommended 6,000 square feet to the County standard of 8,000 square feet?

A majority of the Mayor and Council felt that the minimum lot size should not be enlarged and that lot size could be evaluated on a case-by-case basis.

- o Staff has recommended that accessory units be permitted only as part of single-family detached homes. Should accessory units be permitted in buildings which are detached from the main structure such as over a garage?

The Mayor and Council agreed with staff's recommendation that accessory units be permitted only as part of single-family detached homes.

- o Should accessory apartments be permitted to be built in new structures rather than await the proposed three years?

It was agreed that the three-year period remain and that each case could be weighed on its own merits.

- o Should the units be inspected annually instead of bi-annually as is required for single-family rental units?

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Councilmember Marrinan indicated that enforcement may be a problem and suggested that the units be inspected annually. In response to Councilmember Hovsepian, staff clarified that the exteriors of single-family rental units are inspected annually and that the interiors are inspected bi-annually or with change of tenant. It was agreed that the units should be inspected annually.

Staff was instructed to prepare the necessary ordinance establishing provisions for accessory apartments in accordance with the above guidelines.

Re: Discussion and Instructions to Staff - Ordinance to amend Chapter 1 of the Rockville City Code so as to permit Montgomery County Code, Chapter 11A, "Condominiums," Chapter 11C, "Cooperative Housing" and Chapter 53A, "Tenant Displacement" to apply within the City of Rockville.

Councilmember Hovsepian moved the ordinance with staff's recommendation that an administrative agreement be entered into between the City and County. Mayor Duncan responded that the process allowing the Mayor and Council to have final approval over whether or not a specific property should be purchased by the County was already in place. Councilmember Coyle commented that the Chamber of Commerce had expressed concern regarding tenancy for seniors. Discussion followed regarding the State-mandated three year tenancy for elderly and handicapped persons as opposed to the lifetime tenancy provided in the County's law. Staff noted that if the County's law is adopted and administered by the County, exceptions to the County ordinance cannot be made.

Upon motion of Councilmember Hovsepian, duly seconded and unanimously passed, staff was instructed to prepare the necessary documentation to amend Chapter 1 of the Rockville City Code so as to permit Montgomery County Code, Chapter 11A, "Condominiums," Chapter 11C, "Cooperative Housing" and Chapter 53A, "Tenant Displacement" to apply within the City of Rockville.

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Re: Discussion and Instructions
Staff - Proposed Chapter 13A,
"Moderately Priced Housing."

The proposed ordinance would require that all subdivisions of 50 or more units include a minimum number of moderately priced units. It also encourages construction of moderately priced housing by allowing optional increases in density.

Re: Discussion and Instructions
to Staff - Text Amendment
Application T-109-90, Mayor
and Council of Rockville,
Applicant.

Amendments to various sections
of the Zoning Ordinance to
accommodate the provisions of
the proposed Moderately Priced
Housing Ordinance.

Mayor Duncan noted that there were a number of policy issues regarding MPDUs also emanating from the public hearing. Councilmember Hovsepien stated that she is not satisfied with the ordinance, as drafted, and would like to see some questions answered in a more detailed worksession. Since most of the City's new housing will be multi-family, she feels more time for discussion is required with staff. Councilmember Robbins expressed concern with potential exemption of more developments the longer the ordinance is delayed. Councilmember Coyle noted reservations regarding the density bonus issue and options such as building MPDUs off-site and contributions to a housing fund. It was agreed that a worksession would be held the following Monday night, July 30, to provide an opportunity for staff to respond to all remaining questions concerning moderately priced housing.

Re: Worksession regarding wetlands
mitigation project.

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The City Manager stated that the wetlands mitigation project has become complex and has generated a lot of interest. A public informational meeting was held in May in order to share information with interested individuals and to provide a question and answer session. Since that meeting, all letters and other information regarding this project have been forwarded to interested individuals. The draft document provided to the Mayor and Council responds to the questions raised by residents regarding this project.

Mayor Duncan noted that there was no reference to the letter from the State and that a response to the State letter is required. The City Manager responded that the letter from the State would be included and that a response to the State would not be provided until after the next public informational meeting.

The City Attorney was asked who pays for mitigation and advised that the proposed agreement with the Tower Dawson developers states that they will pay for mitigation for displacement of wetlands resulting from construction of the road through their property. Mayor Duncan clarified that as a result of the road being built on the Tower Dawson property, the owners are required to pay for the wetlands mitigation regardless of the location.

In response to Councilmember Coyle's question as to the State requirement regarding trees, staff indicated that the State prohibits use of heavily forested areas to avoid destruction of wildlife habitat. The distinction is the density of trees. Councilmember Coyle also mentioned the issue of safety of residents in creating basins in residential neighborhoods and staff noted that there would be a fence around the one infiltration basin which would make access difficult. All other infiltration facilities will be located underground.

The Mayor and Council then addressed specific questions regarding the draft report.

Regarding the two privately owned proposed sites for mitigation, staff advised that one is owned by Tower Dawson and the second by Brookville Turnpike Corporation.

Councilmember Robbins referenced the opinion of the City Attorney that commencement of the construction project may proceed before mitigation plans are approved by the State. The City Attorney confirmed this advice, noting, however, that the City should continue to move forward to develop a plan for approval by the State.

Staff advised Councilmember Coyle that the reason there was not more mitigation proposed for the Tower Dawson property is that in evaluating the total drainage area, much of the land in the Tower Dawson tract is downstream of Ritchie Parkway where the proposed lake is to be located. Regarding consideration of the area adjacent to the lake for mitigation, staff noted that it cannot be considered in advance of the lake being completed.

As to the infiltration basin at Don Mills Court, Mayor Duncan asked staff if it could be moved back so that it is not constructed right next to homes. Staff noted that they would study it further. Mayor Duncan further asked if restoring wetlands in that area could be used as a trade-off for building the infiltration basin. Staff will review this matter.

Mitigation in the Hungerford-Stoneridge area was discussed, and Mayor Duncan asked where the proposed three acres is located. Staff noted it is the site of the pool and parking lot. Staff was asked to ascertain the site requirements for a pool to determine the feasibility of, and costs associated with, relocating the pool on the same site.

Regarding the six homes on Leverton Road next to the swimming pool, staff advised Mayor Duncan that the backyards of these homes would be a distance away from the actual excavation area. If part of the Hungerford-Stoneridge land were to be used, Mayor Duncan asked if anything could be added to the proposal for Dogwood to connect the two.

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An analysis will be provided. Mayor Duncan asked that the answer to #10 on page 9 be expanded to include sites being considered, acreage encompassed, etc.

Councilmember Coyle requested clarification regarding the response to #15 on page 11, "impacting less wetland area would require constructing more roadway." The City Manager responded that moving the road would not only expand the project, thus increasing the costs, but the design was not deemed safe by the traffic staff.

In the section on specific sites, Mayor Duncan asked that staff indicate the State's response regarding use of these sites. Councilmember Hovsepian asked for information as to where it is that wetlands are being identified along the whole length of Ritchie Parkway. The City Manager noted that the final document will include a map.

Councilmember Coyle noted that they are actually going to be creating more wetlands as a result of the lake than required on that site and could credit be assigned to Ritchie Parkway for the excess on the Tower Oaks site. Staff will review.

Regarding the Dawson Farm, Mayor Duncan noted that the report should indicate that staff will be reviewing this site again with the State.

As to the mitigation affecting Dogwood Park's Master Plan, Mayor Duncan noted the statement that some current park activities may be displaced to alternative areas and new activities may be offered. He asked for a further explanation and if the proposal to use the area along the stream and part of the swim club area would impact any activities.

Councilmember Hovsepian noted the issue of maintenance and problems with areas accumulating silt. Councilmember Marrinan commented that some type of monitoring is needed to assure citizens that staff is following up with maintenance.

Regarding the question dealing with concentration of pollutants in one area, Mayor Duncan asked that this answer be expanded. He also requested an explanation of proposed maintenance for the dry ponds resembling infiltration basins such as Glenora Park, etc.

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Mayor Duncan noted that the next step is another public information meeting. The City Manager emphasized that a draft response to the Maryland Department of the Environment would not be prepared until after such a meeting.

Councilmember Coyle asked about the State requirements and regulations that are not yet in place. Staff responded that the State Department of Natural Resources has written regulations now which will become effective January 1, 1991. These regulations affect new projects not permitted as of July 1, 1989; therefore, the City will not be subject to these regulations. The new regulations are more regimented, call for a specific ratio of 2:1 and have specific deadlines for plan review.

The City Manager referenced the questions raised by the Mayor and Council commenting that some could be easily answered while others may take a while. Mayor Duncan asked that the report be distributed as soon as it is complete but no less than 30 days prior to the next informational meeting. It was agreed that the next informational meeting would be held on September 18.

Mayor Duncan requested that a copy of the State letter, map of Hungerford-Stoneridge Swim Center and the costs of the privately owned property be included in the final document. He further asked that someone from the State be present for the next informational meeting. Mayor Duncan also requested a staff analysis of how the City could achieve 4.12 acres of mitigation if the Mayor and Council determined that Dogwood Park is off limits.

Re: FYI/Correspondence

Councilmember Coyle congratulated the City Manager and the Police Chief regarding the excellent police training program. He noted his disappointment in the change of dates of the Maryland Municipal League convention for '91 and was advised by the City Manager that the change is only for next year.

Regarding the signs to be erected noting major park CIP projects, Mayor Duncan

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asked if the name of the project and the estimated completion date could also be included on the signs.

Mayor Duncan asked what methods of payment would be accepted under the new towing policies and procedures when vehicles are towed at the City's request. Chief Treschuk responded that the new ruling stating that individuals may pay by cash, one check or credit card is in the appellate process and that the methods of payment will be included in the policies once the process is completed.

Councilmember Coyle referenced the letter from the Chairman of the Rockshire Family Day noting that residents really enjoy the Family Day programs and congratulated staff for doing a wonderful job. Mayor Duncan commented that East Rockville Civic Association held their annual picnic this past Saturday which was also a big success.

Re: New Business

Councilmember Robbins referenced the memorandum from the Recreation and Park Advisory Board following up on the issue of alcohol use in public facilities. It was agreed that this item would be placed on a future Mayor and Council agenda for discussion and instructions.

Mayor Duncan noted that a group of 15 or 16 homeless women who normally stay at Rainbow Shelter during the winter were unable to find accommodations for the remainder of the year. He expressed concern that the County has funding for such off-season shelter and has not moved quickly to provide same. Mayor Duncan requested that a letter be sent to the County Executive to see if there is something that can be done to find shelter for these women. Councilmember Hovsepien indicated that she hopes the City is able to address the need for housing for these people and that this is part of the overall housing problem.

With reference to the RBBA residency issue set forth in a June 22 memo, Mayor Duncan noted that the operating costs are not recovered from non-residents and expressed

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concern that the City is subsidizing individuals who do not pay City recreation tax. He noted that a similar review should be applied to RFL and basketball and adult softball for comparison of cost recovery. The City Manager noted that staff would review methods to recover costs next season.

Re: Executive session

Upon motion of Councilmember Coyle, duly seconded and unanimously passed, the Mayor and Council convened in executive session at 10:02 p.m. to discuss property disposition and personnel matters and consult with legal counsel.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 12:04 a.m., to convene again in Worksession at 7:30 p.m. on July 30, 1990, or at the call of the Mayor.